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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,206	06/22/2001	Paul J. Ausbeck JR.	20864.01001	8392

22906 7590 08/23/2004

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EXAMINER

FATAHI YAR, MAHMOUD

ART UNIT	PAPER NUMBER
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2674

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/888,206

Applicant(s)

AUSBECK, PAUL J.

Examiner

Mike Fatahiyar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-36 and 38-39 is/are allowed.
- 6) ☒ Claim(s) 1-14, 16-25, 32-37, 40 and 41 is/are rejected.
- 7) ☒ Claim(s) 6-10, 15, 21-25 and 42-46 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/11/02
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6-10, 21-25 and 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 6-10, it is not clear to what the recitation "a magnitude of a pointing component" refers. Also, it is not clear how the recitation "a magnitude of a pointing component....." distinguish from the recitation "a magnitude of said vertical component....". In other words, what is the difference between these two components?

In claim 8, lines 4-5, there is no clear antecedent basis for "the magnitude of the pointing component".

In claim 10, lines 4-5 and 8-9, the recited languages are vague and indefinite because they contradict each other. At lines 4-5, the claim calls for "indicating the force is decreasing" whereas at lines 8-9, the claim calls for "indicating a low cursor motion speed if the vertical component of the force is increasing";

At lines 10-12, the recited language is vague and indefinite because it is contradictory.

In claim 21, the recitation "a magnitude of at least one other force" is vague and indefinite because it is not clear to what it refers.

Claim 37 is incomplete because the preamble specifies "a method for indicating a **movement** and **selection** from a pointing device". However, all the recited steps in

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the claim relate to the movement indication of the pointing device and no steps is recited as to the selection of the pointing device. Correction and/or clarification is required.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 11-14, 16-20, 37 and 40-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Leung (6,388,655).

Leung discloses a method and apparatus for indicating cursor motion from a force applied to a pointing device according to a variable gain transfer function comprising a first gain which is a low gain for small precise movement and a second gain which is a relatively higher gain for a rapid movement wherein the second gain is based on a monotonically increasing function of the force(column 1, lines 35-50; column 5, lines 34-65; column 6, lines 21-61; column 8, lines 1-43).

5. Claims 6, 8-10 and 21 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

6. Claims 7 and 22-25 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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7. Claims 15 and 42-46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claim 26-36 and 38-39 are allowed.
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mehr, McCambridge et al, Chen et al, Rutledge et al (5,945,979), Watanabe, Kandogan et al and Takatuka et al are made of record to show various types of methods for indicating cursor motion or selection.
10. The following is an examiner's statement of reasons for allowance: The prior art of record fails to teach or suggest singly or in combination a method for indicating cursor motion, selection, maintaining a selection or a short duration selection in a manner prescribed in the presently claimed inventions.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mike Fatahiyar** whose telephone number is **(703) 305-6911**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richard Hjerpe**, can be reached at **(703) 305-4709**.

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Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:


(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

MF
M. Fatahiyar

August 21, 2004


RICHARD HJERPE 8/23/04
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600